



COMMUNITY DEVELOPMENT DEPARTMENT

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236
Website Address: www.morgan-hill.ca.gov

PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 28, 2003

PRESENT: Acevedo, Benich, Lyle, Mueller, Weston

ABSENT: Escobar

LATE: Engles, who arrived at 7:05 p.m. and was seated on the dias

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer and Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:01 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

DECEMBER 10, 2002 COMMISSIONERS MUELLER/WESTON MOTIONED TO APPROVE THE DECEMBER 10, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:

Page 7,2nd paragraph (motion) clarified to read:

COMMISSIONER MUELLER MOTIONED TO RECOMMEND APPROVAL TO THE CITY COUNCIL THE FOLLOWING CHANGES TO THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P) EXEMPTION POLICY: "THE CITY OF MORGAN HILL MAY REQUIRE AN RPD TO ENSURE CONTINUITY OF CITY SERVICES AND ENABLE

DEVELOPERS TO BUILD BETTER PROJECTS", AND B: CHAIR ACEVEDO SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

NEW BUSINESS:

- 1) DAA-00-12:** A request for approval to amend the development agreement for a four lot subdivision on a 1.6 acre parcel located on the north east corner of the intersection of Hill Road and E. Dunne Avenue. The amendment request would extend the four building allocations for one year to March 30, 2004.
- E. DUNNE-GREWAL**

PM Rowe presented the staff report by giving a brief overview of the history of the project, including the requirements of the conditions attached to submittal of maps and plans and interaction with the Public Works Department. "In January, 2002" he said, "the City adopted a Storm Drainage System Master Plan Study, which caused a requirement of a 48-inch storm drain to be installed in the proposed street, for drainage into Tennant Creek. This requirement had not previously been a condition on the tentative map." He also noted the revised proposed resolution which indicated a reduction in the recommendation of the time-extension from 15 months to 12 months. Continuing, PM Rowe said the extension request were not the result of developer inaction.

Chair Acevedo asked, in view of the new requirement of the 48" storm drain, what had been previously required? SE Creer explained the rationale of the new Storm Drainage System Master Plan Study, saying the need for the 48-inch pipe was ascertained during a plan check review.

Chair Acevedo reiterated that the delay was not the fault of the developer.

Commissioner Mueller asked when the Storm Drainage System Master Plan Study was completed and adopted by the City Council? SE Creer responded that action was January, 2002.

Commissioner Benich asked if the developer knew of the requirement at the time of submittal of the tentative map? [No]

Commissioner Lyle inquired as to the potential impact on flooding in the area when the project is completed? SE Creer responded there would not be much impact on flooding as a result of specific changes in the area but that the City may partner in the increase in the pipeline project, so there could be potential benefit for the City following completion of the project.

Chair Acevedo questioned the expansion of Tennant Creek to the east. SE Creer explained that there would be expansion, if at all, from the south continuing north and this would provide the benefit to the City for decreased flooding potential.

Chair Acevedo opened the public hearing. Hans R. Mulberg, 16761 OakView Circle, engineer for the project, told Commissioners the Planning Department staff have done a

PLANNING COMMISSION MINUTES

JANUARY 28, 2003

PAGE -3-

'tremendous job' in helping to resolve the myriad of problems with this project. Mr. Mulberg said he envisioned there will be a meeting of the Water District and the City regarding the matter of work required at Tennant Creek. He told Commissioners that the Water District has a 'no touch from October 15 to April 15' policy regarding Tennant Creek, and that the Water District has the 'final say' on such matters. Mr. Mulberg said the requirement for the 48-inch storm drain pipeline had been unknown prior to 2002. He continued that the major problem exists with the Bureau of Reclamation and the requirement that the 48-inch pipeline be placed 5-feet above their existing 96-inch pipeline. The major complication is that there is only a 9-foot clearance above the existing pipeline and the logistics simply don't work. Mr. Mulberg told Commissioners that he is also working with Fish and Game and the Corps of Engineers as well.

Commissioner Benich commented that a concern will be that even if this extension is granted, the problems may not be resolved and further extensions will be requested. Mr. Mulberg agreed the process has not been smooth, but the developer is dedicated and intends seeing the project to completion.

Commissioner Lyle asked if the problems are resolved by this summer, could work begin in the fall? [Yes] Commissioner Lyle further queried the soundness of financial underpinnings for the project. Mr. Mulberg replied this did not appear to be a fear.

With no others present to address the matter, the public hearing was closed.

Commissioner Lyle requested staff to comment on the issue of the project's effect on decreasing flooding. He also asked if the project could be completed before next year's rainy season? SE Creer explained that in installing the 48-inch pipe, once it leaves Tennant Creek and 'links' to the City right-of-way, the Water District has 'no say' regarding placement nor use of the pipeline. He continued by commenting that where improvements affect portions of the creek, the Water District may be the controlling agency.

Mr. Mulberg reiterated that between October 15 and April 15 the Water District will not let anyone touch improvements along the creek.

Commissioner Lyle asked if work would commence by March 15 if that would be 'OK' with the Water District? "Maybe," replied Mr. Mulberg.

Commissioner Mueller asked for comment on information he had been given regarding the Water District sphere of influence. He said it appeared that they had expanded the sphere to 150 feet instead of the previous 50 feet.

SE Creer said the Water District has a proposed ordinance that would require a permit from the District for any work within 150 feet of the channel.

Considering the proposed resolution, Commissioner Lyle suggested it would be appropriate to delete the second sentence of the first paragraph (bottom of the page). Other Commissioners present agreed this should occur.

**COMMISSIONERS WESTON/BENICH OFFERED RESOLUTION NO. 03-02,
RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT**

PLANNING COMMISSION MINUTES

JANUARY 28, 2003

PAGE -4-

AMENDMENT APPLICATION, DAA-00-12, TO ALLOW FOR A ONE-YEAR EXTENSION OF TIME FOR MEASURE P PROJECT, MP-00-01: E. DUNNE - GREWAL. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, WESTON; NOES: LYLE, MUELLER; ABSTAIN: NONE; ABSENT: ESCOBAR.

Chair Acevedo commented that he believes it is important to be sensitive to the 'hassles' the developer has had with all different agencies.

Commissioner Weston observed that the developer had expended 'lots of effort and appears committed to the project'. He said, "This is not the time to stop."

2) EOT-03-01: A request for approval of an extension of time for lot 55, Coyote Estates Phase 4, located
EVENING STAR-on the north side of Evening Star Court, east of Peet Avenue. The extension of time
BRISACHER requested would extend the building allocation for 2 years to June 30, 2005.

PM Rowe gave the staff report, explaining that Lot 55 was originally part of Phase 4A of Coyote Estates, but had been changed to Phase 4B in 2000. The custom home lot owner is asking for this extension, with which staff agrees, as it being in the best interest of the neighborhood and for the public good to have this allocation preserved.

Commissioner Lyle asked if the development plans were impeded with factors other than financial? PM Rowe responded that was his understanding.

Commissioners asked several questions regarding the original lots and the relationship of this one to the whole. Discussion ensued as to the consequences of disallowing this request. [The allocation will expire and lapses until there is an establishment of a set-aside for custom lots or inclusion into a micro-competition.]

Chair Acevedo opened the public hearing.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, addressed the Commissioners, offering to 'clear up' questions surrounding the matter. He explained the original allocations, phases 3, 4A and 4B. Originally part of the larger 28 lot allocation, this lot was sold to the applicants in June, 2000. Regarding the impact on the neighborhood if the extension were to be granted, Mr. Oliver said that several of the custom lots were purchased, but not build on, for up to six years. Consequently, he said, there would not be a huge impact on the neighborhood should the extension requested be granted.

Kirk Brisacher, the applicant, 12150 Woodside Dr., Saratoga, stated that due to change in his employment status and the lack of a subcontractor (who left the project before it actually began), this extension request was a necessity. Responding to Commissioner's questions, Mr. Brisacher explained the design of the originally planned house, the downsizing, and the current tentative plan.

With no other persons indicating a wish to address the issue, the public hearing was closed.

Commissioners embarked on discussion of the marketability and availability of custom homes, in addition to the complications of having subcontractors who understand the

nuances of the designs of custom homes.

Calling attention to the proposed resolution, Commissioner Lyle said it would be important to have the dates changed from April 15 to March 31 to ensure continuity of reports prepared by City staff.

Potential start date for the construction was also discussed in depth.

COMMISSIONERS MUELLER/BENICH OFFERED RESOLUTION NO. 03-03, RECOMMENDING APPROVAL OF AN EXTENSION OF TIME FOR APPLICATION EOT-03-01: EVENING STAR - BRISACHER, WITH THE INCLUSION OF LANGUAGE (SECTION 2) THIS ACTION IS DUE TO THE LOSS OF A VENDOR, CAUSING DELAY TO COMMENCEMENT OF THE PROJECT, AND RESULTING IN REDESIGN OF THE DWELLING. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, MUELLER, WESTON; NOES: LYLE; ABSTAIN: NONE; ABSENT: ESCOBAR. It was noted that the recommended date change was included into the resolution.

Commissioner Lyle clarified that his vote was reflective of concern that two years was too long for this application/request.

OTHER BUSINESS:

3) RDCS

QUARTERLY REPORT

PM Rowe presented the quarterly report, which had been distributed to the Commissioners. He called attention to specific projects which the Planning Commission had been tracking; for example, McLaughlin-Jones, where completion is anticipated by the first part of February, and provided updates on other projects of specified interest, including the Grewal extension.

The report, which had been circulated, was amended with the inclusion of updates on page 9.

Commissioner Mueller raised the issue of differing number estimates in the total population projected numbers in the report. Discussion developed regarding the methodology for derivation of those numbers. Commissioner Mueller said it is essential that a determination be made as to how those numbers are computed. It was decided that Commissioners Mueller and Lyle should meet with staff to ascertain a specific population projection to report to the Commissioners for veracity in the quarterly report.

ON A MOTION BY ACEVEDO, SECONDED BY WESTON, THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM 4TH QUARTER REPORT FOR 2002, AS AMENDED, WAS APPROVED FOR FORWARDING TO THE CITY COUNCIL. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ENGLES, LYLE, MUELLER, WESTON; NOES: BENICH; ABSTAIN: NONE; ABSENT: ESCOBAR.

CONCERNS FOR CITY

PLANNING COMMISSION MINUTES

JANUARY 28, 2003

PAGE -6-

Commissioner Mueller asked SE Creer to comment on the difficulties with areas of the City flooding during the latter part of December, 2002, which resulted in closure of main arteries during traffic peak times. SE Creer responded that there had been a two fold problem: 1) the excessiveness of the rains during that period, which he termed unusual; and 2) the lack of maintenance by the Water District in the ditches. Pesticides and sprays previously used to counteract cattail and other weed problems have been curtailed by State direction. SE Creer explained that the Water District has been dealing with this problem through the use of manual/mechanical removal of the weeds, but with the ferocity of weather conditions, this did not occur during the fall of 2002. Therefore, he reported, the water was trapped in those areas resulting in flooding to sections of City streets.

ANNOUNCEMENTS:

PM Rowe distributed copies of a draft EIR for the Institute of Mathematics Golf and Conference Center. The tentative public hearing will be February 25, 2003, public comment period will close March 10, 2003 then the final EIR will be prepared with the matter returning to the Planning Commission.

PM Rowe announced that the expanded initial study on the Aquatic Complex is being distributed, and has been given high priority by the City. The Planning Commission will consider the Initial Study and Project Applications at the February 11, 2003 meeting.

Continuing, PM Rowe said the project narratives and plans for the 23 Measure P applications would be given to the Commissioners at the conclusion of the meeting, with five weeks allotted for review. PM Rowe reminded that the Commissioners have one point they will be awarding, so they should give consideration to this matter as they study the applications.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 8:09 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk